

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: DIET DRUGS
(PHENTERMINE, FENFLURAMINE,
DEXFENFLURAMINE) PRODUCTS
LIABILITY LITIGATION**

MDL DOCKET NO. 1203

MDL CASE NO.
02-20143

THIS DOCUMENT RELATES TO:

**CYNTHIA ACOSTA, ET AL.
(KIM JACOB)**

VERSUS

**AMERICAN HOME PRODUCTS
CORPORATION, ET AL.**

JUDGE BARTLE

MOTION TO WITHDRAW AS COUNSEL OF RECORD

COMES NOW, Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle, who respectfully files this, their Motion to Withdraw as Counsel of Record, as to Plaintiff Kim Jacob and, in support of said Motion, would show this Honorable Court as follows:

1. Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarraf, A.P.L.C., and O'Quinn, Laminack & Pirtle, were hired by Plaintiff Kim Jacob to pursue her claims against Defendant Wyeth for injuries she sustained as a result of her ingestion of the prescription diet drugs phentermine, fenfluramine and/or dexfenfluramine.

2. Per Plaintiff's instructions, Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle, opted her out of the Nationwide Settlement Agreement and filed an individual lawsuit on her behalf in Louisiana state

court. That lawsuit was later removed to the United States District Court for the Eastern District of Louisiana and subsequently transferred to this Court for inclusion in MDL No. 1203.

3. On December 29, 2003, a letter was forwarded to Plaintiff's home address explaining that her case was subject to dismissal. Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle advised Plaintiff that she was free to seek advise from another lawyer, or that they would withdraw from her case and allow her to proceed on her own. The letter was sent certified mail; return receipt requested and was signed for at Plaintiff's home address on January 6, 2004.

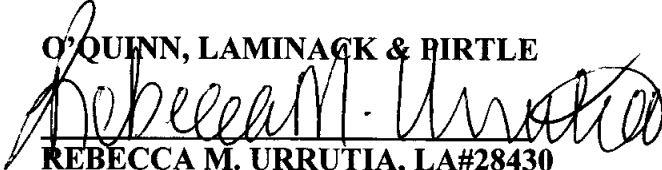
4. On January 13, 2004, Plaintiff contacted the lawyers in response to the December 29, 2003 letter and refused to provide instruction to her lawyers. Plaintiff was contacted on February 20, 2004 and refused to communicate with her lawyers. Plaintiff has failed to communicate with lawyers since February 20, 2004.

5. It has become clear that Plaintiff has no intention of cooperating, or at the very least, giving Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle, permission to withdraw from or dismiss her case. Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle, have made numerous good faith attempts to work with Plaintiff and now believe that they are entitled to be released from this matter without further delay.

FOR THESE REASONS, Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle, request that this Court grant their Motion to Withdraw as Counsel of Record and grant such other and further relief as it deems necessary.

Respectfully submitted,

O'QUINN, LAMINACK & PIRTLE

 *RMU 2/28/04*

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been forwarded to all known counsel of record, pursuant to the Federal Rules of Civil Procedure on this 28th day of, Dec., 2004.


REBECCA M. URRUTIA

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PRETRIAL ORDER NO. _____

AND NOW, TO WIT, this _____ day of _____, 2004, upon consideration of the motion of the law firms of Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle, to withdraw as counsel for Plaintiff Kim Jacob in the above captioned action,

IT IS ORDERED that withdrawal of Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle, as counsel is permitted, subject to the following conditions:

1. Plaintiff's counsel shall send a letter to the plaintiff by certified mail that will include the following:

- (a) a copy of this Order;
 - (b) a statement outlining to Plaintiff the importance of her proceeding on this case with counsel familiar with the law and the procedure in the federal court of cases similar to this case;
 - (c) Plaintiff's counsel's letter shall also provide that Plaintiff shall have thirty (30) days from the date of this Order to secure new counsel if she intends to proceed with counsel in this manner;
 - (d) Plaintiff's counsel's letter shall also state that the court intends to grant present Plaintiff's counsel's motion to withdraw at the expiration of the thirty (30) day period, and the case shall proceed on its normal trial schedule whether or not plaintiff has secured new counsel;
2. Plaintiff's counsel shall file with the Clerk of Court within ten (10) days of the date of this Order a certificate that both evidences that Plaintiff's counsel has complied with all of the foregoing requirements of this Order and states the plaintiff's last known address.
3. Thirty (30) days from the date of this Order, provided all of the foregoing steps have been completed by Plaintiff's counsel, Plaintiff's counsel shall be deemed to be released from further responsibility to the court as counsel for Plaintiff in this civil action.

SO ORDERED.

HON. HARVEY BARTLE, III